IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

WP(C).No. 14642 of 2004(R)

PETITIONER:

JOHN VARGHESE, PERSONAL DRIVER OF
REGIONAL MANAGER, CENTRAL BANK OF INDIA,
REGIONAL OFFICE, COCHIN : 682 016.

BY ADV. SRI.VELLAYANI SUNDARARAJU
SMT.P.MEENAKUMARI

RESPONDENTS:
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1. **THE REGIONAL MANAGER,**
   CENTRAL BANK OF INDIA, REGIONAL OFFICE,
   GEO TOWERS, PALLIMUKKU, COCHIN: 16.

2. **THE CENTRAL BANK OF INDIA, REP: BY**
   ITS CHIEF ZONAL MANAGER (PRS),
   ZONAL OFFICE, CHENNAI.

3. **THE CHIEF MANAGER (PRS),**
   CENTRAL BANK OF INDIA, CHENNAI.

BY ADV. SRI.M.P.RAMACHANDRAN NAIR (SR.)
SRI.DEVAN RAMACHANDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.14642/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE RULES ON ABSORPTION OF EXECUTIVE PERSONAL CAR DRIVERS ISSUED BY RECRUITMENT & PROMOTION DIVISION OF 2ND RESPONDENT DT. 22.6.88.

EXT.P2:- COPY OF THE REPRESENTATION OF PETITIONER TO DY. GENERAL MANAGER OF 2ND RESPONDENT DT. 3.1.91.

EXT.P3:- COPY OF THE LETTER OF INTIMATION DT. 20.3.91 OF 1ST RESPONDENT TO PETITIONER.

EXT.P4:- COPY OF THE LETTER OF 1ST RESPONDENT DT. 12.10.93 TO 2ND RESPONDENT.

EXT.P5:- COPY OF THE LETTER OF 1ST RESPONDENT DT. 23.11.92 TO 2ND RESPONDENT.

EXT.P6:- COPY OF THE LETTER OF 1ST RESPONDENT TO 2ND RESPONDENT DT. 20.9.93.

EXT.P7:- COPY OF THE LETTER OF 1ST RESPONDENT TO 2ND RESPONDENT TO 17.5.93.

EXT.P8:- COPY OF THE LETTER OF 3RD RESPONDENT TO 1ST RESPONDENT DT. 13.4.97.

EXT.P9:- COPY OF THE LETTER DT. 5.11.98 OF 1ST RESPONDENT TO 2ND RESPONDENT.

EXT.P10:- COPY OF THE 2ND RESPONDENT TO 1ST RESPONDENT DT. 4.9.03 .

EXT.P11:- COPY OF THE LETTER OF 1ST RESPONDENT TO 2ND RESPONDENT DT. 13.9.03.

EXT.P12:- COPY OF THE MINUTES OF JOINT DISCUSSION DT. 10TH AND 11TH NOVEMBER 2003 3 PAGES.

EXT.P13:- COPY OF THE ORDER DT. 25.8.03 OF SECURITY DEPARTMENT OF 2ND RESPONDENT 1 PAGE.

EXT.P14:- COPY OF THE LETTER OF 3RD RESPONDENT TO 1ST RESPONDENT DT. 24.3.04 1 PAGE

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EXT.P15:- COPY OF THE JUDGMENT IN OP. NO.7524/99 OF THIS COURT DT. 22.6.99.

EXT.P16:- COPY OF THE JUDGMENT AND ORDER (ORAL) IN WRIT PETITION (C)NO.951/01 DT.22.8.03 OF GAUHATI HIGH COURT.

EXT.P17:- COPY OF THE ABSORPTION ORDER DT. 20.9.04 VIDE NO.ZO GUWA PRS. 04-05 816 DT. 20.9.04

<u>RESPONDENTS EXHIBITS</u>

EXT.R1(1):- COPY OF THE LETTER DT. 23.6.97.

EXT.R1(2):- COPY OF THE JUDGMENT OP. NO.7524/99-U DT. 22.6.99.

/TRUE COPY/

P.A. TO JUDGE

tss

ANTONY DOMINIC,J.

W.P (C) No.14642 of 2004

Dated this the 8th day of August, 2007

J U D G M E N T

The petitioner seeks an order directing the respondents 2 and 3 to regularise him as Driver in the Thekkemala branch of Central Bank of India by declaring that the said vacancy arose at the end of 1992.

2. The petitioner was a personal driver of one of the officials of the respondent Bank and while so, he had filed a writ petition before this court as O.P. No.7524 of 1999 seeking a direction to the Bank to appoint him as Driver-cum-peon in an available vacancy. That case was heard by this court and disposed of by Exhibit-P15 judgment , in which,it was held that the scheme marked as Exhibit-P1 which provided for regularisation was withdrawn under the orders of the Government of India. It was also held that in view of the Government of India orders, the Bank could make recruitment only following the recruitment policy subject to the reservation to SC/ST etc. Accepting these contentions of the Bank, the relief was declined to the petitioner. But, however, it was clarified that if the petitioner applies only for regular

recruitment his application will be considered for employment without insisting on age bar.

3. In the light of the findings of this Court in Ext.P15 judgment, the petitioner could not have again filed a writ petition claiming regularisation of service in the Bank. What provoked the petitioner to file this writ petition appears to be Ext-P14 , which is a communication from the Zonal Office of the Bank at Chennai to its Regional Office, Trivandrum. By that communication, permission was granted to fill up certain posts including that of driver. Exhibit-P15 makes it clear that the drivers have to be recruited from the existing members of Sub staff and that such recruitment was in terms of Clause S/7.3 of Promotion Policy Agreement dated 29.5.2000 and also point 4 of M.O.U dt. 19.2.2003. Admittedly, the petitioner was not a member of the Sub Staff and he could not claim the benefit of Ext.P14.

4. If it is the contention of the petitioner that in view of Ext.P15 judgment bank could not have confined to recruit sub staff, that also is devoid of any merit. In Ext.P15 there is no positive direction on the Bank to extend any employment

assistance to the petitioner. Exhibit-P15 does not over ride the terms of any Award or M.O.U. The Bank has to comply with the terms of Award or M.O.U. Ext.P14 has been issued in compliance thereof and hence the action of the Bank cannot be faulted.

In view of the above, I do not find any merit in this writ petition and it is only to be dismissed and I do so.

(ANTONY DOMINIC,JUDGE)

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/True copy/

P.A to Judge

K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007